

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1673.01
COMPLAINT INVESTIGATOR: Sandie Scudder
DATE OF COMPLAINT: January 5, 2001
DATE OF REPORT: February 1, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: March 13, 2001

COMPLAINT ISSUES:

Whether the Gary Community School Corporation violated:

- 511 IAC 7-27-3(a) with regard to the school's alleged failure to include in the November 28, 2000 case conference committee("CCC") meeting a representative from the school who was knowledgeable about the availability of the school's resources.

During the course of the investigation, the following additional issues were identified:

Whether the Gary Community School Corporation violated:

- 511 IAC 7-17-64(6) with regard to the school's alleged failure to assure that the Student's services are designed to meet the unique needs of a student eligible for special education and related services.
- 511 IAC 7-27-4(c)(1) with regard to the school's alleged failure to develop an IEP taking into consideration the strengths of the student and the concerns of the parent.
- 511 IAC 7-17-36(4) with regard to the school's alleged failure to provide a free appropriate public education (FAPE) by assuring the student's services are provided in conformity with an IEP that meets the requirements of Article 7.

FINDINGS OF FACT:

1. The student is an eight-year-old second grader who has been determined eligible for special education and related services due to a mild mental disability and an emotional disability.
2. The Student's need for increased speech therapy services was discussed at the November 28, 2000, CCC meeting.
3. The Complainant was informed at the November 28, 2000, CCC meeting that speech therapy services could not be increased because the speech therapist's caseload was full.
4. The Principal indicated at the November 28, 2000, CCC meeting that, as the Principal, she was not in the position to delegate funds to hire an additional speech therapist, but rather it was up to her superiors in administration.
5. The discussion for increased speech therapy services at the CCC meeting conducted on November 28, 2000, centered on the school's ability to provide the service rather than the Student's need for

additional services.

6. The Principal indicates she did not have the authority to commit the additional resources to meet the Student's increased speech therapy needs.

CONCLUSIONS:

1. 511 IAC 7-27-3(a) requires the public agency representative to be knowledgeable about the availability of resources. This means that the public agency representative must have the authority to commit agency resources and be able to ensure that whatever services are set out in a student's IEP are actually provided. Findings of Facts #4 and #6 indicate that the School Principal attended the CCC as the public agency representative, but was unable to identify or commit resources to meet the student's agreed-upon speech therapy needs. Therefore, a violation of 511 IAC 7-27-3(a) is found.
2. Findings of Fact #2, #3 and #5 reflect that the school attempted to develop the Student's IEP based on available resources rather than upon the Student's unique and specific individual needs. Therefore, violations of 511 IAC 7-17-64(6), 511 IAC 7-27-4(c)(1) and 511 IAC 7-17-36(4) are found.

The Department of Education, Division of Special Education requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Gary School Corporation shall:

1. Reconvene the CCC to determine the length and frequency of speech therapy to be provided based on the Student's needs and consider the Student's need for compensatory speech therapy services for the time the Student did not receive increased speech therapy services.

A copy of the CCC Report/IEP must be sent to the Division no later than February 23, 2001.

2. In-service appropriate staff regarding the requirement that:
 - the public agency representative must have the authority to commit the agency's resources to ensure that the services identified in a student's IEP are actually provided; and
 - a student's IEP is to be developed to include services designed to meet the unique needs of the student and not determined based on the availability of resources.

Submit documentation to the Division that the in-service has been completed no later than February 28, 2001. The documentation should include a list or agenda of all issues discussed, any handouts that were distributed and list of attendees by name and title.

3. **No later than February 12, 2001**, submit a list of the names of all students in Norton Elementary School who are currently receiving speech therapy services. Upon receipt of that list, the Division will identify ten students. Within ten days of notifying the school corporation of these names, the school corporation shall submit the current IEPs for each of these students for the Division's review. The school corporation shall comply with any additional corrective action required by the Division as the result of the Division's review of these ten IEPs.